

## COMPLAINT FORM

**1. Complainants:**

- a. (Ms.) Huot Hoeung  
901 Emily Street, 2<sup>nd</sup> Fl.  
Philadelphia, PA 19148  
(215) 334-0537
- b. Consumer Bankruptcy Assistance Project  
1424 Chestnut Street  
Philadelphia, PA 19102  
(215-523-9511)

**2. Persons subject to discrimination, if different from above:**

- a. Huot Hoeung (above)

**3. Agency or Department or Program that discriminated:**

**Agency:** U.S. Department of Justice  
**Component:** Office of the United States Trustee  
**Individual:** Frederic J. Baker, Sr. Assistant U.S. Trustee  
**Address:** 601 Walnut Street, Rm 950 West  
Philadelphia, PA 19106  
**Telephone:** 215-597-4411

**4A. Non-employment form of discrimination:**

**Race or Color** \_\_\_\_

**National Origin** ☒ (Specify: Limited English Proficient)

**Religion** \_\_\_\_ **Method of Payment** \_\_\_\_ (Specify: \_\_\_\_\_ )

**Age** \_\_\_\_ (Specify: \_\_\_\_\_ ) **Sex** \_\_\_\_

**Disability** \_\_\_\_ (Specify: \_\_\_\_\_ ) **Other reason** \_\_\_\_ (Specify)

**5. Contact information:** Please contact complainants through counsel. Any communication to Huot Hoeung should be conducted in Khmer.

**6. Additional contact information:**

NA

7. **Counsel:**  
Paul M. Uyehara  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102  
215-981-3718/3700 (tel)  
215-981-0436 (fax)  
[puyehara@clsphila.org](mailto:puyehara@clsphila.org)
8. **Dates the Alleged Discrimination Took Place:**  
Earliest: 1/24/03  
Latest: Ongoing
9. **Explanation of any Delay Beyond 180 Days in Filing Complaint:**  
NA.
10. **Explain What Happened:**

The United States Trustee for Philadelphia refused to provide an interpreter for complainant Huot Hoeung, who speaks very little English and cannot read English, at her mandatory meeting of creditors in her bankruptcy case. He also uses documents and forms important to the bankruptcy process which are available only in English. Complainant Consumer Bankruptcy Assistance Project (CBAP) is a pro bono legal services agency serving a substantial population of limited English proficient debtors. CBAP has had to provide its own interpreters for the meetings. The U.S. Trustee has failed to establish any plan or protocol to provide meaningful access to limited English proficient debtors and claims it has no responsibility to provide any language services. Indeed, the U.S. Trustee manual, section 2-2.4.1, erroneously implies that the trustee has no obligation to provide interpreters for debtors and recommends, contrary to established principles in existing guidances, that attorneys and relatives should be used to interpret. Similar provisions are in the handbooks for the Chapter 7 and Chapter 13 Trustees.

The facts are set forth in detail in the attached statements of complainants Huot Hoeung and CBAP and counsel.

11. **Explain any Actions to Retaliate or Intimidate You in Connection with your complaint:**  
NA
12. **Witnesses and Contacts to Support or Clarify Complaint: (in addition to complainants, counsel and subject)**  
  
Gloria M. Satriale, Esq., Panel Trustee  
1 McKinley Lane,  
Chester Springs, PA 19425  
(610) 827-4038

Janet Lewis, Bankruptcy Analyst  
Office of the UST  
601 Walnut Street, 950 West  
Philadelphia, PA 19106  
(215) 597-4411

**13. Other Relevant Information:**

Bankruptcy practitioners in at least two other districts reported to counsel that they have been unable to obtain interpreters from their U.S. Trustees as well. It has also been reported that the bankruptcy information sheet relied upon by the trustees may be available only in English and, in some jurisdictions in one or two other languages. It is believed that the experience of the complainant is indicative of a nationwide lack of a plan and policy for assisting LEP debtors.

**14. Remedies Sought:**

a. The Philadelphia office of the U.S. Trustee (UST) should immediately arrange for a qualified interpreter to be provided for Huot Hoeung at her 341 meeting.

b. The Executive Office of the U.S. Trustee should be mandated promptly to conduct an assessment of language needs and resources, create a national language access plan including provisions to provide for qualified interpreters for all LEP debtors in bankruptcy proceedings conducted by the UST, notify the public and bankruptcy bar of the plan, train staff, and monitor the implementation of the plan. The plan should include a protocol for translation of vital documents issued or used by the UST in communicating with debtors. Appropriate amendments should be made to the trustee reference manuals. The plans should be devised in consultation with interested stakeholders, including language access advocates, bankruptcy practitioners and LEP group representatives.

c. The DOJ Departmental Plan Implementing Executive Order 13166 should be amended to classify local offices of the UST as a "Category D" DOJ component which has regular interaction with significant numbers of LEP persons in matters of important individual interests, i.e., the administration of the bankruptcy system, which must develop and implement a language assistance plan.

**15. Have you filed the same or other complaints with other offices of the Department of Justice?**

Yes \_\_\_\_\_ No X

**\_\_\_\_\_ 16. Have you filed, or do you intend to file, this complaint with any other Federal, State or Local Government agency?**

Yes \_\_\_\_\_ No X

- 17. If your answer to the last question is yes, please provide details on the complaints filed:**

NA

- 18. Please sign and date the complaint:**

\_\_\_\_\_  
Dated: \_\_\_\_\_  
HUOT HOENG (as explained by counsel and interpreted by telephone)

\_\_\_\_\_  
Dated: \_\_\_\_\_  
MARY ANNE LUCEY  
Executive Director  
Consumer Bankruptcy Assistance Project

## **STATEMENT IN SUPPORT OF COMPLAINT**

1. My name is Huot Hoeung and I am the complainant in this matter.
2. My first language is Khmer (Cambodian). I grew up in Cambodia. I had no formal education there. I have been in the U.S. since 1984. I speak only a minimal amount of English and am uncomfortable conducting any important business matters in English. I do not read any English.
3. Because I had trouble paying my debts, I obtained help from Paul Uyehara to file a Chapter 7 bankruptcy for me. I was worried because people called me every day asking for money I could not afford not afford to pay. The bankruptcy was filed in January 2003.
4. I request a qualified interpreter to assist me with the meeting of creditors. I would not understand what is being said at the meeting without an interpreter. I want to be sure that I understand all the questions and that the trustee and my lawyer understand what I say.
5. I request that the trustee provide interpreter and translating assistance to all debtors who don't speak English well.
6. The contents of this statement were sight translated for me into Khmer by a telephone interpreter.

---

HUOT HOEUNG

## STATEMENT IN SUPPORT OF COMPLAINT

1. My name is Mary Anne Lucey. I am the Executive Director of the Consumer Bankruptcy Assistance Project (CBAP) located in Philadelphia. I have worked at CBAP for eight years.

2. CBAP is a pro bono, non-profit legal services provider which specializes in providing free attorneys for low income debtors in the City of Philadelphia who seek the protections afforded by a Chapter 7 bankruptcy. Most of our clients are represented on a pro bono basis by private bankruptcy practitioners. Some clients are represented by attorneys on our staff. Our staff consists of a director, a project coordinator/attorney, a part time attorney and a volunteer paralegal.

3. Huot Hoeung was referred to Paul Uyehara at Community Legal Services for bankruptcy assistance.

4. CBAP volunteers and staff file approximately 450 bankruptcy petitions per year. I estimate that some 15% of our clients are limited English proficient.

5. In our experience, the bankruptcy trustees have never offered to provide interpreters to any of our clients for the required meeting of creditors. Instead, they expect us to bring an interpreter for the trustee. In some cases, we have used friends or relatives to do the interpreting. In one of our cases, a volunteer interpreter we had arranged for failed to appear and we used the debtor's daughter to interpret for her as well as for another Spanish speaking debtor. We are aware of no effort by the panel or U.S. Trustees to assure that the interpreters are competent.

6. At each §341 meeting of creditors, all debtors are required to read and sign an oath to tell the truth during the meeting. The oath is available in English only. At each meeting, all debtors are also expected by the panel trustee to read a "bankruptcy information sheet" available in the waiting room before the meeting commences. During the meeting, the trustee will ask if the debtor has read the sheet and understood it. At least one panel trustee will interrupt the meeting and send the debtor outside if she reports not having read the sheet. The sheets are available in English only. No signs are posted in the meeting room in any language other than English.

7. The U.S. Trustee is willing to provide sign interpreters for hearing impaired debtors.

Dated: \_\_\_\_\_

---

MARY ANNE LUCEY  
Executive Director  
Consumer Bankruptcy Assistance Project

## **STATEMENT IN SUPPORT OF COMPLAINT**

1. My name is Paul M. Uyehara and I am the attorney representing the complainants in this matter. I also represent Huot Hoeung in her chapter 7 bankruptcy.

2. A meeting of creditors was scheduled for Ms. Hoeung for 2/11/03. I wrote to panel trustee Gloria Satriale on 1/23/03 to request that a qualified Cambodian interpreter be provided for the meeting. Ms. Satriale called me promptly and said that I needed to contact the U.S. Trustee's (UST) office to request an interpreter or that I could bring one myself and she would swear in the interpreter.

3. I then contacted the U.S. Trustee's office and was informed by an employee that I needed to speak to Janet Lewis, who was responsible for arranging interpreters. I spoke to Ms. Lewis, who initially told me that debtors are required to provide their own interpreters. She then referred to a policy from the U.S. District Court which she indicated was used as a model for the UST. However, she then acknowledged that the court's policy required interpreters for limited English proficient parties. At this point, she said she would need to consult with others about how to respond to my request. The next day, she called back to tell me that the office was under no statutory requirement to provide interpreters for LEP debtors.

4. On January 30, 2003, I spoke with Frederic J. Baker, the Senior Assistant U.S. Trustee, who repeated that his office had no statutory duty to provide interpreters and that no interpreters would be provided. He did say that my client was welcome to attend the meeting and that she could bring an interpreter of her choosing. Although I informed him that I believed his office was required by Executive Order 13166 and Department of Justice policy to provide interpreters for LEP debtors, he would not agree to investigate my claim and provided no specific statement of his office's policy as to providing language services to LEP debtors. He did offer to bring the issue to the attention of his superiors in Washington. I sent him a confirming letter that day, which is attached hereto.

5. On 2/10/03, Mr. Baker called and said that officials in Washington were reviewing the issue. He offered to proceed with the meeting with the debtor providing an interpreter, or to pass on a request to the panel trustee to continue the meeting. I told him we would like to wait for his office to provide an interpreter. Thereafter, an employee of the panel trustee informed me that the 341 meeting would be postponed until 3/27/03 pursuant to the request of the UST.

6. I have received e-mail from consumer bankruptcy practitioners which indicates that in at least two other districts, the UST also will not provide interpreters for section 341 meetings of creditors. An attorney from a third state stated that she is bilingual and routinely serves as an interpreter for her LEP clients at section 341 meetings. I also was told that some other districts also provide bankruptcy information sheets in English only. However, two colleagues reported that the sheets were available in one or two languages other than English. In my ten years plus experience as a consumer bankruptcy lawyer, the sheet, as well as the debtor's oath form, is provided in English only, as is another information sheet handed to the debtor at the conclusion of the meeting.

7. The published handbook for U.S. Trustees discussion on the treatment of LEP debtors in Chapter 7 cases is completely contrary to E.O. 13166, the spirit of the DOJ Title VI guidance, and commonly accepted practices on language access. The manual, section 2-2.4.1, suggests that the trustee has no obligation to provide an interpreter and recommends that the trustee use relatives or attorneys who happen to be present to interpret. Similar provisions are found in the handbooks for Chapter 7 and Chapter 13 Trustees.

8. The DOJ Departmental Plan Implementing Executive Order 13166 classifies the Executive Office of the UST as a Category A component which has little or no contact with LEP persons due to its internal or administrative function within DOJ. However, the local offices of the UST are responsible for supervising or conducting mandatory 341 meetings of creditors in all bankruptcy cases and regularly are involved in bankruptcy proceedings. UST staff therefore have regular contact with LEP debtors and creditors and should be classified as a “Category D” DOJ component, as are the local U.S. Attorneys.

9. The Bankruptcy Code provides critical protections for consumers by stopping harassment by collectors and providing a fresh start for those overwhelmed with debt. Some consumers file bankruptcy in order to avoid loss of their home to foreclosure, while others need the help to prevent loss of utility services. Many people are forced into bankruptcy as a result of marital separation, illness, loss of work, or the death of a family breadwinner.

All debtors in both Chapter 7 and 13 must attend a meeting of creditors presided over by a trustee and must “submit to examination under oath.” 11 U.S.C. § 343. At least in Philadelphia, the oath is in writing and signed by the debtor. The meeting is tape recorded by the trustee. Bankruptcy Rule 2003(c). The debtor must cooperate with the trustee. 11 U.S.C. § 521(3). During the meeting, the trustee asks the debtor many questions under oath to ascertain that the voluminous bankruptcy schedules and statements filed by the debtor are accurate, that the case is being filed in good faith, and that the debtor has some understanding of the bankruptcy process. If any creditors attend, they can also question the debtor about the case and the debtor’s intentions.

In Chapter 7 cases, the Code mandates that the Trustee provide important basic information to the debtor about bankruptcy. 11 U.S.C. § 341(d). In practice, that information is conveyed in Philadelphia by means of a bankruptcy information sheet distributed to all debtors at the meeting. The trustee questions each debtor to assure that she has read and understood the form. Another information sheet is handed out at the conclusion of the meeting. Should the debtor fail to attend the meeting (or, presumably, attend and fail to participate), the trustee can and will move to dismiss the case. Finally, making a false statement under oath in a bankruptcy is a federal felony punishable by 5 years imprisonment and a \$5,000 fine. 18 U.S.C. § 152.

Thus, the ability to participate in the meeting of creditors is essential to afford LEP debtors meaningful access to the bankruptcy system to the same extent that English proficient debtors can participate. Assuring that qualified interpreters are available to debtors is necessary so that the debtor can understand the proceedings. Qualified interpreters also help assure that the trustee is obtaining accurate information from the debtor. Neither of these purposes is well served by the current practice of allowing anyone to interpret, not providing any translations, and leaving trustees untrained in how to work with interpreters.

10. I believe that the Executive Office of the U.S. Trustee could benefit from consulting



with the consumer and creditor bankruptcy bars, language access advocates, and ethnic or community based organizations that serve LEP populations in devising remedies. The complainants and I would in particular welcome participation in the remedial process.

\_\_\_\_\_  
Dated: \_\_\_\_\_

PAUL M. UYEHARA  
Staff Attorney  
Community Legal Services, Inc.